IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8954 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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GUJ RAJYA GRANT IN-AID & ITI KARMACHARI SANGH

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 8954 of 2001

MR KANUBHAI I PATEL for Petitioner No. 1

GOVERNMENT PLEADER for Respondent No. 1-3

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 02/08/2002

ORAL JUDGEMENT

1. The petitioner ventilates the grievance of its members, who are employees of Grand-in-Aid Industrial Training Institutions of State of Gujarat and who are denied the grant of bonus pursuant to G.R. dated October 20, 1999 and October 18, 2000.

2. Rule. Learned Assistant Government Pleader Mr. Jani waives service of notice of Rule. In the facts and circumstances of the case, the petition is taken up for final hearing.

3. An identical question arose before this Court in Special Civil Application No.9011 of 1998 wherein this Court (Coram: S.K. Keshote, J.) delivered the following judgment :-

"1. Heard the learned counsel for the parties, perused the Special Civil Application and reply to the same filed by the respondent No.2.

2. From the resolutions which have been passed from time to time and the fact that earlier the petitioners were getting the bonus, I am satisfied that the denial of bonus to them is wholly erroneous. If we go by any of the resolutions, I find that teaching and non-teaching employees of grant-in-aid institutions are entitled for bonus. The petitioners are the teachers in the District Training School which are receiving grant-in-aid and as such they are certainly entitled for bonus. Otherwise also, in case the plea of the respondents is accepted, then it will amount to hostile discrimination. All other employees of teaching and non-teaching staff of various Universities, Colleges affiliated to Universities, Primary and Higher Secondary Schools, work-charged employees, employees of the State Social Welfare Advisory Board and other employees are getting the bonus and the petitioners have been left out. Moreover, the petitioners were getting bonus earlier but later in point of time, it was discontinued. Discontinuation of bonus to the petitioners is certainly arbitrary and in case the plea of the respondents is accepted then they may be discriminated in the matter of payment of bonus.

3. Learned counsel for the respondents is unable to satisfy to this Court how the case of the petitioners is not covered under resolutions as well as in case what they have contended is accepted how it will not amount to making discrimination.

4. In the result, this Special Civil Application succeeds and the same is allowed and it is hereby declared that the petitioners are entitled for the bonus as per resolution dated 12th October, 1998. The respondents are directed to calculate the amount of bonus payable to the petitioners within a period of two months from the date of receipt of writ of this order and pay the same within 15 days next. Rule is made absolute in the aforesaid terms with no order as to costs."

4. The above judgment was carried in Letters Patent Appeal No.1077 of 1999 and while admitting that appeal, this Court passed the following order on November 24, 1999 in the Civil Application for stay :-

"Rule. We have heard Ms. Katha Gajjar, learned counsel for appellant and Mr. K.I. Patel, learned counsel for the opponents. In the facts and circumstances of the case and particularly in light of the findings recorded by the learned Single Judge in Special Civil Application No.9011 of 1998 dated 10.5.1999 that the denial of bonus to employees who had tried the petition as arbitrary and discriminatory and in view of the fact that the petitioners have finally succeeded in the petition no interim relief deserves to be granted. The Interim relief as prayed for is refused. Any payment which will be made pursuant to the order passed by the learned Single Judge will be subject to final outcome of L.P.A. The C.A. is disposed of accordingly. Rule discharge. No costs."

5. Heard learned Advocate Mr. Patel as well as learned Assistant Government Pleader Mr. Jani. There is no dispute that the present petition is identical to Special Civil Application No.9011 of 1998 except that it relates to different year's resolution regarding grant of bonus by the Government.

6. Learned Assistant Government Pleader Mr. Jani has drawn attention of this Court and has placed much stress on a clarification issued by the Finance Department on 2.11.1999, which is annexed to the affidavit-in-reply. On plain reading of that circular

clarifying the position, it is clear that the intention behind the G.R. was to grant bonus to the employees of non-government grant-in-aid polytechnic and technical institutions. It was clarified that employees of other private institutions who are allotted grant are not entitled to bonus. It was stated that for employees of such private institutions who are allotted grant, no grant will be allocated for payment of bonus, L.T.C. and medical allowance. This clarification was in pursuance of G.R. dated October 20, 1999 (Annexure-C) which is sought to be enforced by the petitioner. This leaves no scope for any doubt that the petitioner's case for grant of bonus to its members who are employees of grant-in-aid Industrial Training Institutions of Gujarat is justified and has to be accepted.

7. The petition, therefore, deserves to be allowed and the same is allowed. It is hereby declared that the members of the petitioner-union working in the grant-in-aid Industrial Training Institutions are entitled to bonus as per resolutions Annexure-C and D dated October 20, 1999 and October, 18, 2000, respectively. The respondents are directed to calculate the amount of bonus thus payable within a period of six weeks from the date of receipt of this order and to make the payment thereof to all concerned within a period of 15 days thereafter. Rule is made absolute accordingly with no orders as to costs.

[A.L. DAVE, J.]

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